



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

JB

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/551,408 04/18/00 IVRI

Y 16770-002721

EXAMINER

QM32/0725

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

DAWSON, G

ART UNIT

PAPER NUMBER

3761

DATE MAILED:

07/25/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action

Application No.

09/551,408

Examiner

Glenn K Dawson

Applicant(s)

IVRI ET AL.

Art Unit

3761

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 June 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check only a) or b)]


- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 706.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search. (see NOTE below);
 - (b) ☐ they raise the issue of new matter. (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

4. ☐ Applicant's reply has overcome the following rejection(s): _____.
5. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
6. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
8. ☒ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 32-39.
- Claim(s) withdrawn from consideration: _____.
9. ☐ The proposed drawing correction filed on _____ a) ☐ has b) ☐ has not been approved by the Examiner.
10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
11. ☐ Other: _____


Glenn K Dawson
Primary Examiner
Art Unit: 3761

Continuation of 6. does NOT place the application in condition for allowance because: the rejection is one in which the examiner considers it obvious to make the plate of Ivri out of a known corrosion-resistant metallic material. As shown, gold and nickel were known to be corrosion resistant when contacting drugs. To make the plate out of one of these materials is therefore considered to be obvious. However, one skilled in the art would not stop there, but rather would also find it obvious to use any well-known corrosion-resistant material from which to make the plate. As palladium was known at the time of the invention to also be corrosion-resistant (see Pidwerbecki-6145963), this too would have been an obvious material from which to fashion the vibrating plate of Ivri. All limitations have been taught or suggested. What a reference teaches is completely different from what it suggests. Clearly, once it is determined that it is obvious to make the plate out of one corrosion-resistant material, to use any known corrosion-resistant material (including alloys) is also obvious, unless that specific material in some way would react strangely or detrimentally with the desired content of the liquid material applied thereto. Also, exactly how much of the plate one desired to make using the corrosion-resistant material would be obvious as it would merely vary the cost or the effective duration of use. If the device were to be disposable, it might only be necessary to use a coating or film of corrosion-resistant material. If the device were to be useful for many applications, and if cost were not an issue, then it would be beneficial to make a greater percentage of the plate out of the corrosion-resistant materials. As noted in the final rejection, the two references are not deemed to be non-analogous art.